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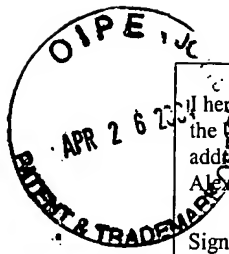
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<p><b>CERTIFICATE OF MAILING</b></p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April <u>21</u>, 2004.</p> <p>Signed: <u>Anne Currier Carr</u></p> <p>Anne Currier Carr</p>
---

Attorney Docket No. PHOTP003  
**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.	:	10/669,887	Confirmation No.:	2242
Applicant	:	CHENG, Xuefeng et al.		
Filed	:	September 24, 2003		
TC/A.U.	:	3736		
Examiner	:	Unassigned		
Docket No.	:	PHOTP003		
Customer No.	:	26541		
Title	:	ABSOLUTE OXYGEN SATURATION FOR MONITORING TISSUE VIABILITY		

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR §1.47(A)**  
**JOINT INVENTORS REFUSE TO SIGN OR CANNOT BE REACHED**

Sir:

In the Notice to File Missing Parts mailed December 24, 2003, it was asserted that the oath or declaration was missing.

Applicant attempted to obtain a declaration but, after what is believed to be diligent efforts, Applicant has not been able to obtain the signature of the four inventors. Accordingly, Applicant petitions under rule 1.47(a) to prosecute this application on behalf of the non-signing inventors.

Initially, Applicant contacted the assignee and none of the inventors are currently employed there so the most recent addresses that are known are the ones that were stated on the parent application. The four inventors either refuse to sign or could not be reached after a diligent effort as described below.

U.S. Patent Application: 10/669,887  
Applicant: CHENG, Xuefeng et al.  
PETITION UNDER 37 CFR 1.47(a)

With regard to Xuefeng Cheng, a package including the formal documents was sent to the last known address on March 17, 2004. The last known address is as follows:

Xuefeng Cheng  
1775 Milmont Drive, Apt. A212  
Milpitas, CA 95035

The package was sent by registered mail and we received the package back unopened indicating that the address is incorrect.

With regard to Xiaorong Xu, a package including the formal documents was sent on March 17, 2004 to the last known address. The last known address is as follows:

Xiaorong Xu  
357 6<sup>th</sup> Avenue #6  
Menlo Park, CA 94025

The package was sent by registered mail and Applicant received a receipt back on signed by Xiaorong Xu. However, Applicant has not received the executed formal documents.

With regard to Shuoming Zhou, Applicant sent a package including formal documents on March 17, 2004 to the last known address. The last known address is as follow:

Shuoming Zhou  
19608 Pruneridge Avenue, Apt. 8207  
Cupertino, CA 95014

The package was sent by registered mail and Applicant received a receipt back on signed by Winterhalter on March 18, 2004. However, Applicant has not received the executed formal documents.

With regard to Lai Wang, a package including the formal documents was sent to the last known address on March 17, 2004. The last known address is as follows:

Lai Wang  
18680 Newson Avenue  
Cupertino, CA 95014

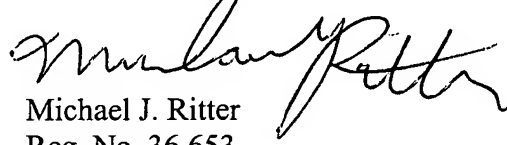
The package was sent by registered mail and we received the package back unopened indicating that the package was refused.

U.S. Patent Application: 10/669,887  
Applicant: CHENG, Xuefeng et al.  
PETITION UNDER 37 CFR 1.47(a)

Attached are copies of the letters initially sent to the above-named inventors on March 17, 2004, as well as copies of the certified mail receipts. If any other proof is required, please do not hesitate to contact the undersigned.

If it is determined that any additional fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account 50-1652 (Order No. PHOTP003).

Respectfully submitted,

  
Michael J. Ritter  
Reg. No. 36,653

RITTER, LANG & KAPLAN LLP  
12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070  
Tel: 408-446-8690

MJR/klm/acc



**RITTER, LANG & KAPLAN LLP**  
ATTORNEYS AT LAW

12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070  
Tel: 408-446-8690  
Fax: 408-446-8691

Direct Dial and E-mail:  
408.446.8693  
mritter@rlklaw.com

March 17, 2004

Xuefeng Cheng  
1775 Milmont Drive, Apt. A212  
Milpitas, CA 95035

Re: U.S. Patent Application No 10/669,887  
*Absolute Oxygen Saturation for Monitoring Tissue Viability*  
Filing Date: September 24, 2003 Our File: PHOTP003

Dear Mr. Cheng:

Enclosed are several documents that need to be reviewed, signed, and returned to us. Please review, sign, and date the Combined Declaration and Power of Attorney and Assignment, and return the completed documents to us.

1. Patent Application as attached to the Combined Declaration and Power of Attorney

The Declaration formally "applies" for the patent and the Power of Attorney gives our firm power of attorney to prosecute the application in the Patent Office. These two legal documents have been combined on the same form. Please read the application including the claims, review the drawings, and read the combined Declaration and Power of Attorney form prior to signing. If everything is correct in these papers and you understand and agree with the statements in the form, please sign and date the Declaration where indicated. It is improper to alter or mark the application or the Declaration/Power of Attorney once the signing commences. If there are any questions, please call me so we can address them before you sign this document.

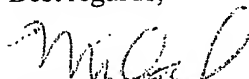
2. Assignment

The Assignment formally makes of record that **Viopitix, Inc.** owns this invention and that you are transferring full ownership of the invention to **Viopitix, Inc.**

We would like to remind you of our duty to disclose the most pertinent prior art of which you are aware to the Patent Office. As you know, we have a duty to disclose to the Patent Office any patents, papers, and other public materials that you are aware that may be pertinent to the invention. If you know of any references that should be cited, please let me know so that we can include them with an Information Disclosure Statement that will be filed with the Patent Office. Additionally, please remember that the duty to disclose pertinent prior art continues until the patent actually issues. Therefore, if you become aware of any references in the future, please let us know.

Once we receive the completed documents, we will file them with the United States Patent and Trademark Office. Please call me if you have any questions.

Best regards,

  
Michael J. Ritter

Enclosure  
MJR/kam

**CERTIFIED MAIL**

BITTER, LANG & KAPLAN LLP  
ATTORNEYS AT LAW  
12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070



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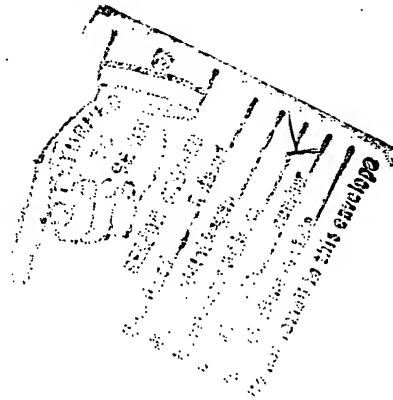
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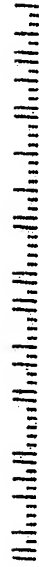
0000

**RETURN RECEIPT  
REQUESTED**

Xuefeng Cheng  
1775 Milmont Drive, Apt. A212  
Milpitas, CA 95035



95035#3067 5046



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1. Article Addressed to:

Xuefeng Cheng  
1775 Milmont Drive  
Apt. A212  
Milpitas, CA 95035

2. Article Number

(Transfer from service label)

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A. Signature

☒ X ☐ Agent

B. Received by (Printed Name) ☐ Addressee

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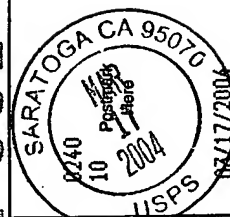
4. Restricted Delivery? (Extra Fee) ☐ Yes

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Certified Fee	\$ 2.30
Return Receipt Fee (Endorsement Required)	\$ 1.75
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 4.65



Sent To

XUEFENG CHENG

Street, Apt. No.

or PO Box No. 1775 MILMONT DRIVE APT. A212

City, State, ZIP+4

MILPITAS, CA 95035

PS Form 3800, June 2002

See Reverse for Instructions



**RITTER, LANG & KAPLAN LLP**  
ATTORNEYS AT LAW

12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070  
Tel: 408-446-8690  
Fax: 408-446-8691

Direct Dial and E-mail:  
408.446.8693  
mritter@rlklaw.com

March 17, 2004

Xiaorong Xu  
357 6<sup>th</sup> Avenue, #6  
Menlo Park, CA 94025

Re: U.S. Patent Application No 10/669,887  
*Absolute Oxygen Saturation for Monitoring Tissue Viability*  
Filing Date: September 24, 2003 Our File: PHOTP003

Dear Mr. Xu:

Enclosed are several documents that need to be reviewed, signed, and returned to us. Please review, sign, and date the Combined Declaration and Power of Attorney and Assignment, and return the completed documents to us.

1. Patent Application as attached to the Combined Declaration and Power of Attorney

The Declaration formally "applies" for the patent and the Power of Attorney gives our firm power of attorney to prosecute the application in the Patent Office. These two legal documents have been combined on the same form. Please read the application including the claims, review the drawings, and read the combined Declaration and Power of Attorney form prior to signing. If everything is correct in these papers and you understand and agree with the statements in the form, please sign and date the Declaration where indicated. It is improper to alter or mark the application or the Declaration/Power of Attorney once the signing commences. If there are any questions, please call me so we can address them before you sign this document.

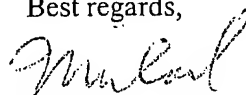
2. Assignment

The Assignment formally makes of record that **Vioptix, Inc.** owns this invention and that you are transferring full ownership of the invention to **Vioptix, Inc.**

We would like to remind you of our duty to disclose the most pertinent prior art of which you are aware to the Patent Office. As you know, we have a duty to disclose to the Patent Office any patents, papers, and other public materials that you are aware that may be pertinent to the invention. If you know of any references that should be cited, please let me know so that we can include them with an Information Disclosure Statement that will be filed with the Patent Office. Additionally, please remember that the duty to disclose pertinent prior art continues until the patent actually issues. Therefore, if you become aware of any references in the future, please let us know.

Once we receive the completed documents, we will file them with the United States Patent and Trademark Office. Please call me if you have any questions.

Best regards,

  
Michael J. Ritter

Enclosure  
MJR/kam



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1. Article Addressed to:

*Xiaorong Xu*  
*357 6th Avenue #6*  
*Menlo Park, CA 94025*

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS FOLD AT DOTTED LINE

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature *X Xu* ☐ Agent ☐ Addressee

B. Received by (Printed Name) \_\_\_\_\_ C. Date of Delivery \_\_\_\_\_

D. Is delivery address different from item 1? ☐ Yes ☐ No  
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4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

2. Article Number 7003 3110 0005 3517 3944

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Postage	\$ \$0.60
Certified Fee	\$2.30
Return Receipt Fee (Endorsement Required)	\$1.75
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ \$4.65



Sent To *XIAORONG XU*

Street, Apt. No.,  
 or PO Box No. *357 6TH AVENUE #6*  
 City, State, ZIP+4 *MENLO PARK, CA 94025*

PS Form 3800, June 2002 See Reverse for Instructions

4456 2756 5000 0716 6002



**RITTER, LANG & KAPLAN LLP**  
ATTORNEYS AT LAW

12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070  
Tel: 408-446-8690  
Fax: 408-446-8691

Direct Dial and E-mail:  
408.446.8693  
mritter@rlklaw.com

March 17, 2004

Shuoming Zhou  
19608 Pruneridge Avenue, Apt. 8207  
Cupertino, CA 95014

Re: U.S. Patent Application No 10/669,887  
*Absolute Oxygen Saturation for Monitoring Tissue Viability*  
Filing Date: September 24, 2003 Our File: PHOTP003

Dear Mr. Zhou:

Enclosed are several documents that need to be reviewed, signed, and returned to us. Please review, sign, and date the Combined Declaration and Power of Attorney and Assignment, and return the completed documents to us.

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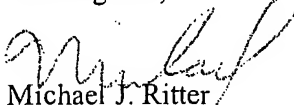
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Best regards,

  
Michael J. Ritter

Enclosure  
MJR/kam

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1. Article Addressed to:

Shuoming Zhou  
19608 Pruneridge Avenue  
Apt. 8207 8107  
Cupertino, CA 95014

2. Article Number

(Transfer from service label)


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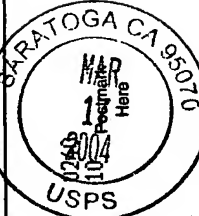
- A. Signature  ☒ Agent ☐ Addressee
- B. Received by (Printed Name) Wintehalter C. Date of Delivery 3-18-04
- D. Is delivery address different from item 1? ☐ Yes ☐ No  
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Return Receipt Fee (Endorsement Required)	\$1.75
Restricted Delivery Fee (Endorsement Required)	\$0.00
<b>Total Postage &amp; Fees</b>	<b>\$ 4.65</b>

03/17/2004

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Street, Apt. No.,  
or PO Box No. 19608 PRUNERIDGE AVENUE, APT. 8207

City, State, ZIP+4 CUPERTINO, CA 95014

PS Form 3800, June 2002 See Reverse for Instructions

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**RITTER, LANG & KAPLAN LLP**  
ATTORNEYS AT LAW

12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070  
Tel: 408-446-8690  
Fax: 408-446-8691

Direct Dial and E-mail:  
408.446.8693  
mritter@rlklaw.com

March 17, 2004

Lai Wang  
18680 Newson Avenue  
Cupertino, CA 95014

Re: U.S. Patent Application No 10/669,887  
*Absolute Oxygen Saturation for Monitoring Tissue Viability*  
Filing Date: September 24, 2003 Our File: PHOTP003

Dear Mr. Wang:

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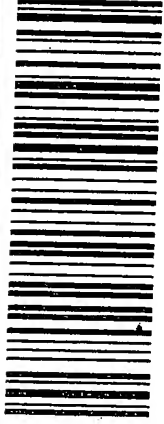
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Best regards,

Michael J. Ritter

Enclosure  
MJR/kam

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ATTORNEYS AT LAW  
12930 Saratoga Ave., Suite D1  
Saratoga, CA 95070



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Lai Wang  
18680 Newson Avenue  
Cupertino, CA 95014

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35014X3883 C002

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1. Article Addressed to:

*Lai Wang*  
*18680 Newson Ave*  
*Cupertino, CA 95014*

2. Article Number  
 (Transfer from service)

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 PS Form 3811, August 2001

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A. Signature ☐ Agent  
☒ Addressee

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D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

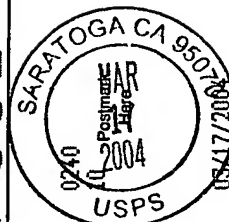
3. Service Type  
☐ Certified Mail ☐ Express Mail  
☒ Registered ☐ Return Receipt for Merchandise  
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Restricted Delivery Fee (Endorsement Required)	\$0.00
<b>Total Postage &amp; Fees</b>	<b>\$ \$4.65</b>



Sent To *LAI WANG*  
 Street, Apt. No. *18680 NEWSON AVE*  
 or PO Box No. *18680*  
 City, State, ZIP+4<sup>®</sup> *CUPERTINO, CA 95014*

PS Form 3800, June 2002 See Reverse for Instructions

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